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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,288

05/17/2007

Oliver Breuer

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BOYLE FREDRICKSON S.C.
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MILWAUKEE, WI 53203

EXAMINER

LEE, MICHAEL S

ART UNIT

PAPER NUMBER

3677

NOTIFICATION DATE

DELIVERY MODE

10/07/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

Office Action Summary	Application No. 10/581,288	Applicant(s) BREUER, OLIVER	
	Examiner MICHAEL LEE	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20090929</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is a first office action on the merits. Claims 17-36, as originally filed are currently pending and have been considered below.

Information Disclosure Statement

1. The information disclosure statement filed 31 August 2009 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the listed reference DE 23 23 875 appears to be the incorrect serial number for the reference. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Drawings

2. The drawings were received on June 01, 2009. These drawings are not acceptable. See Form 948 for an explanation.

Claim Objections

3. Claims 17 and 28 objected to because of the following informalities:

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In claim 17, line 3; term "partial" should be replaced by --partially--.

In claim 24, lines 8 and 10; the term "therethough" is misspelled and should be replaced by --therethrough--.

In claim 24, line 12; the "." at the end of the sentence should be replaced with --;-
-.

In claim 28, line 2; an extra period at the end of the claim should be removed.

In claim 29, line 7; the term "partial" should be replaced with --partially--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 17-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Azam (US 6,339,867).

Regarding claim 17, Azam discloses a clamping device for a shoelace, comprising:

a base (6 and 12) having an inner surface (7) defining a cavity [for receiving the shoelace]*;

a movable slider (8) partially received in the cavity of the base, the slider [movable between a first clamping position wherein the shoelace is captured

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between the slider and the inner surface of the base and a second, non-clamping position wherein the shoelace may be drawn through the cavity]*; and

a protrusion (Fig. 3 as annotated below) extending from the slider and engageable with the base (at 14) [for selectively maintaining the slider in the non-clamping position]*.

Examiner's note*: the above (and below) statements in brackets are examples of intended use failing to limit the structure of the claimed invention. The prior art must only be capable of performing said functional recitations to be applicable and in the instant case, the prior art of Azam is indeed capable. Note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

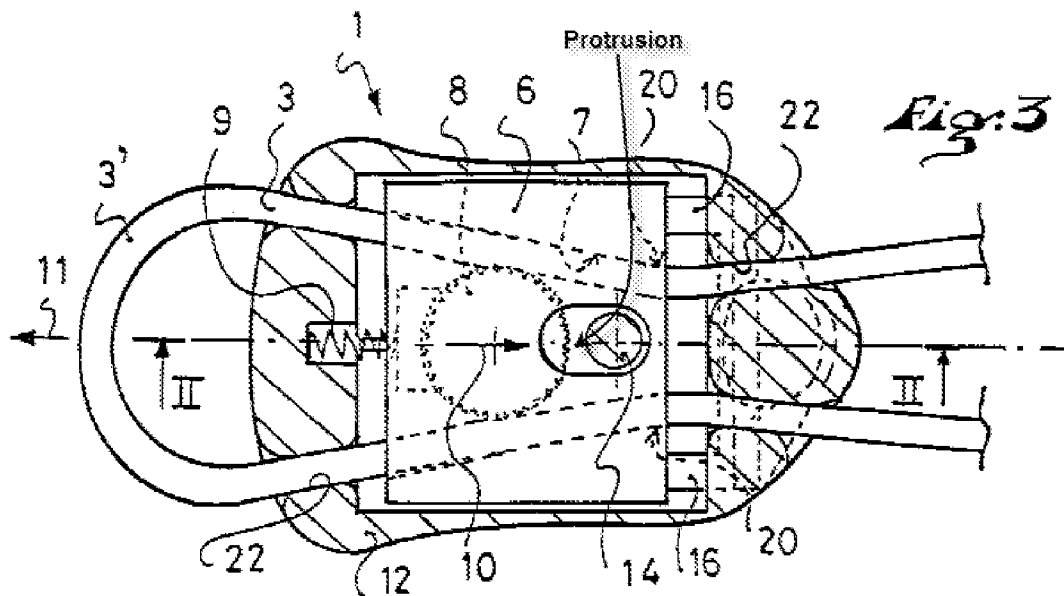


Fig. 3 as reproduced from Azam (US 6,339,867)

Regarding claim 18, Azam further discloses a biasing structure (9) [for urging the slider towards the clamping position]*.

Regarding claim 19, Azam further discloses wherein the biasing structure (9) includes a helical compression spring mounted between the base and the slider (Fig. 3).

Regarding claim 20, Azam further discloses wherein the inner surface of the base (7) includes a cogged portion (20) [for engagement with the shoelace with the slider in the clamping position]*.

Regarding claim 21, Azam further discloses wherein the slider (8) includes an outer surface having a cogged portion (Fig. 3), the cogged portion of the outer surface

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of the slider engaging the shoelace (3) with the slider in the clamping position (Fig. 3 shows the slider in its clamping position).

Regarding claim 22, Azam further discloses wherein the base includes a baseplate (Fig. 4 as annotated below) [for attaching the clamping device to a shoe]*.

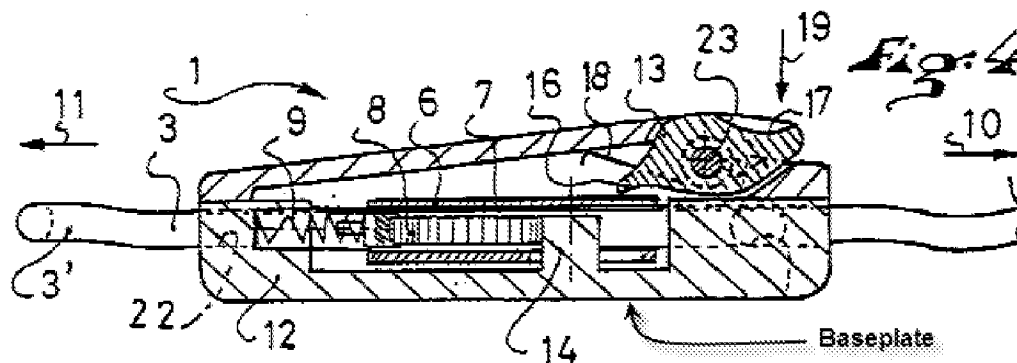


Fig. 4 as reproduced from Azam (US 6,339,867)

Claim Rejections - 35 USC § 103

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 23-29, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azam, as applied to claim 17 above and further in view of Rio (US 2,200,895).

Regarding claim 23, Rio further teaches a lever (17) [for facilitating the movement of the slider from the clamping position to the non-clamping position]*.

From this teaching of Rio, it would have been obvious to one skilled in the art at the time of the invention to modify the device of Azam to include the handle and necessary passage slit in the base to allow for easy engagement of the sliding facilitating movement between clamping and non-clamping positions.

Regarding claim 24, Azam discloses a clamping device for a shoelace, comprising:

- a base (6 and 12) defining a cavity and having a first and second cogged surface (20 on each side of the funnel 7);

- a movable slider (8) partially received in the cavity of the base and having a cogged surface (Fig. 3), [the slider movable between a first clamping position and a second, non-clamping position]*.

Azam fails to explicitly disclose first and second cogged surfaces;

wherein:

- the first cogged surface of the slider and the first cogged surface of the base define a first passageway for receiving a first portion of the shoelace therethrough;

- the second cogged surface of the slider and the second cogged surface of the base define a second passageway for receiving a second portion of the shoelace therethrough;

the first portion of the shoelace is clamped within the first passageway with the slider in the clamping position; and

the second portion of the shoelace is clamped within the second passageway with the slider in the clamping position.

Rio teaches a clamping device with a first and second cogged surface (18 in Fig. 4).

From this teaching of Rio, it would have been obvious to one skilled in the art at the time of the invention to modify the device of Azam to change the shape of the engaging part of the slider head to the wedge design. The examiner takes Official Notice of the equivalence of the round headed slider of Azam and the wedge shaped slider of Rio for their use in the shoelace fastening art and the selection of any of these known equivalents to fasten a shoelace would be within the level of ordinary skill in the art.

Regarding claim 25, Azam further disclose a protrusion (Fig. 3 as annotated above) extending from the slider (8) and [engageable with the base for selectively maintaining the slider in the non-clamping position]*.

Regarding claim 26, Azam further disclose a biasing structure (9) [for urging the slider towards the clamping position]*.

Regarding claim 27, Azam further disclose wherein the base includes a

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baseplate (Fig. 4 as annotated above) for attaching the clamping device to a shoe]*.

Regarding claim 28, Rio further teaches a lever (17) [for facilitating the movement of the slider from the clamping position to the non-clamping position]*.

From this teaching of Rio, it would have been obvious to one skilled in the art at the time of the invention to modify the device of Azam to include the handle and necessary passage slit in the base to allow for easy engagement of the sliding facilitating movement between clamping and non-clamping positions.

Regarding claim 29, Azam discloses a shoe, comprising:

- a shoelace (3) [for maintaining the shoe on a foot of a wearer]*;

- a clamping device (1) [for securing the shoelace at a used desired location]*, the clamping device including:

- a base having an inner surface defining a cavity for receiving the shoelace;

- a movable slider (8) partially received in the cavity of the base (in 7, Fig. 3), the slider [movable between a first clamping position wherein the shoelace is captured between the slider and the inner surface of the base and a second, non-clamping position wherein the shoelace may be drawn through the cavity]*; and

- a protrusion (Fig. 3 as annotated above) extending from the slider and engageable with the base (at 14) [for selectively maintaining the slider

in the non-clamping position]*.

Azam fails to disclose the shoelace having first and second ends.

Rio teaches two shoelace ends (Fig. 1).

From this teaching of Rio, it would have been obvious to one skilled in the art at the time of the invention to further modify the shoe of Azam to have the shoelace have two ends as this is an art recognized typical arrangement for shoelaces.

Regarding claim 35, Rio et al. further teach a tongue (8) and wherein the base includes a baseplate operatively connected to the tongue (Fig. 5 shows the fastener secure to the tongue with baseplate attached prongs 11).

From this teaching of Rio et al. it would have been obvious to one skilled in the art at the time of the invention to further modify the shoe of Azam to have the baseplate to securely attach to the tongue to ease the one fingered operation of the fastener.

Regarding claim 36, Rio et al. further teach a clip (11) for operatively connecting the clamping device to the tongue (8).

From this teaching of Rio et al. it would have been obvious to one skilled in the art at the time of the invention to further modify the shoe of Azam to include the clip as an art recognized obvious means of attaching a fastener to a tongue.

8. Claims 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Azam and Rio as applied to claim 29 above, and further in view of

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Grande et al. (US 6,775,928).

Regarding claim 30, the combination of Azam and Rio disclose all the structural elements of the claimed invention as described above. The combination fail to disclose the ends are interconnected to define a loop so as to permit handling of the shoelace with a single finger.

Grande et al. teach a shoe wherein the shoelace ends (24A) are interconnected (Column 3, lines 50-52).

From this teaching of Grande et al. it would have been obvious to one skilled in the art at the time of the invention to further modify the shoe of Azam to interconnect the laces for ease of use allowing single finger tightening.

Regarding claim 31, Grande et al. further teach a handle (25) overlapping the first and second ends (24A) of the shoelace (24; Column 3, line 53).

From this teaching of Grande et al. it would have been obvious to one skilled in the art at the time of the invention to further modify the shoe of Azam to include a handle to interconnect the shoelace ends to provide an easily graspable handle easing usage.

9. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Azam, Rio, and Grande et al. as applied to claim 31 above, and further in view of Oorei et al (US 6,505,424).

Regarding claim 32, the combination of Azam, Rio, and Grande et al. disclose all

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the structural elements of the claimed invention as described above. Azam further discloses a body (Fig. 1)

The combination fails to disclose an elastic band operatively connected to the body and the handle, the elastic band urging the shoelace and the handle toward the body.

Oorei et al. teach a shoe with an elastic band (9) is connected to a body.

From this teaching of Oorei et al. it would have been obvious to one skilled in the art at the time of the invention to further modify the shoe of Azam to include the band of Oorei et al around the shank of shoe to in a manner to retain the shoelace ends preventing movement during activity.

Regarding claim 33, Oorei et al. further teach a band guide (as defined by 3a and 3b) [for receiving the elastic band and guiding the movement thereof]*.

From this teaching of Oorei et al. it would have been obvious to one skilled in the art at the time of the invention to further modify the shoe of Azam to include the guides to prevent accidental removal of the band when not used and to provide the most secure fitting of the band to the shoe.

Regarding claim 34, Oorei et al. further teach a receiving channel (20a) affixed thereto and wherein the elastic band is guided through the receiving channel (Fig. 1).

From this teaching Oorei et al. it would have been obvious to one skilled in the art at the time of the invention to further modify the shoe of Azam to include the

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receiving channel on the sides of the ankle portion to further secure the band to the shoe.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL LEE whose telephone number is (571)270-5735. The examiner can normally be reached on M-F 7:30-5:00 Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. L./
Examiner, Art Unit 3677

/Victor Batson/
Supervisory Patent Examiner, Art Unit 3677